

REMARKS

Applicants have amended claims 15, and 23-27 to particularly point out the subject matter of their invention and to correct minor deficiencies. In particular, in claim 15, "M" in ingredient (A) has been defined as Fe only and the assignment of ascorbate to X in ingredient (B) has been deleted. Applicants have also rewritten claims 23-25 in dependent form and canceled claims 29-37, as necessitated by the above amendments. No new matter has been introduced by these amendments.

Upon entry of the amendments, claims 15, 17, 18, and 23-28 will be pending. Applicants respectfully request that the Examiner reconsider this application, as amended, in view of the following remarks.

Rejection under 35 U.S.C. § 112, ¶ 2

The Examiner rejects claims 15, 17, 18, and 23-28 as indefinite. More specifically, he contends that independent claims 15 and 23-25 do not reflect the election of Fe compound in ingredient (A) and thus requires Applicants to bring these claims in line with the scope defined in the response to restriction requirement dated June 4, 2007. Applicants have amended claims 15 and 23-27 to meet the Examiner's request.

The Examiner also points out a typographical error in claim 15. Applicants have corrected this error by replacing "percholate" with "perchlorate," support for which can be found in the specification at page 4, line 1.

Rejection under 35 U.S.C. § 103 (a)

The Examiner rejects claims 15, 17, 18, and 23-28 as being un patentable over JP 2002-284667, the primary reference, in view of 5 secondary references: Medline abstract 2001149154, HCAPLUS abstract 2002:570068, HCAPLUS abstract 2003:206436, Medline abstract 85057613, and Medline abstract 2002276939.

Claim 15, the only independent claim now pending, will be discussed first. As amended, claim 15, covers an anti-bacteria, anti-virus, and anti-fungus composition having, among other things, ingredient (B) that has a general formula NX, in which X is an anionic group selected from the group consisting of fluoride, chloride, bromide,

iodide, nitrate, sulfate, sulfite, acetate, oxalate, carboxylate, succinate, phosphate, pyrophosphate, perchlorate, gluconate, ethylenediamine tetraacetate, fumate, and lactate.

The Examiner asserts that the primary reference, JP 2002-284667, teaches a skin disinfectant/liniment that contains “as little as 10⁻⁷ % up to 5 % trivalent iron salt, ascorbic acid or its salt, and other antiseptics or germicides.” See the Office Action, page 3, paragraph 2. More specifically, he equates ascorbates in the disinfectant/liniment taught by this reference with ingredient (B) in original claim 15, which can be Li, Na, or K ascorbate. See page 4, paragraph 2. The Examiner admits that the primary reference does not expressly disclose all the components recited in Applicants’ claims at the recited weight ratios. However, it is his position that, “[g]iven the extremely dilute and broad concentration range of ferric salts taught by JP 2002-284667, the [recited] relative concentrations of ascorbates and sodium bicarbonate would have been obvious from the suggested concentrations of the prior art.” See the Office Action, page 4, paragraphs 2 and 3.

Applicants have narrowed claim 15. More specifically, the groups assigned to X recited in amended claim 15 are limited to fluoride, chloride, bromide, iodide, nitrate, sulfate, sulfite, acetate, oxalate, carboxylate, succinate, phosphate, pyrophosphate, perchlorate, gluconate, ethylenediamine tetraacetate, fumate, and lactate. As ascorbate is not among them, the composition covered by amended claim 15 is clearly not taught or suggested by the primary reference. As none of the secondary references teaches or suggests the subject matter covered by amend claim 15, this claim clearly is not rendered obvious by all of the references cited by the Examiner, taken alone or in combination. Neither are claims 17, 18, and 23-28, all of which depend from claim 15.

CONCLUSION

Applicants submit that the grounds for rejection asserted by the Examiner have been overcome, and that claims 15, 17, 18, and 23-28, as pending, define subject matter that is definite and nonobvious over the prior art. On this basis, it is submitted that all pending claims are now in condition for allowance, an action of which is requested.

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It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fee is believed due. Please apply any other charges or credits to Deposit Account No. 50-4189, referencing Attorney Docket No. 60009-003001.

Respectfully submitted,

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Y. Rocky Tsao
Y. Rocky Tsao, Ph.D., J.D.
Attorney for Applicants
Reg. No. 34,053

Customer No. 69713
Occhiuti Rohlicek & Tsao LLP
10 Fawcett Street
Cambridge, MA 02138
Telephone: (617) 500-2503
Facsimile: (617) 500-2499
16850.doc